

## ◆◆ MEMORANDUM ◆◆

To: Louisiana Board of Ethics  
From: Tracy K. Meyer  
Re: Late Filing of School Board and Hospital Service District Disclosure Statements  
Date: October 21, 2009

The following proposed procedures are for handling waiver requests of late filed school board and hospital service district disclosure statements. These procedures will outline how the staff handles the waiver requests as well as the how the staff will come to a recommendation of a waiver or suspension of any late fees assessed.

### WAIVER REQUESTS:

The staff will only consider all waiver requests that are timely filed with the Board.

Rule 1205 of the Boards Rules indicated that waivers are considered timely if they are received by the staff, in writing, within 30 days of the staff mailing the assessment of the late fee.

Section 1157.2 of the Louisiana Code of Governmental Ethics provides authority for the Board's waiver of late filing fees based upon "Good Cause."

"Good Cause" is defined in §1157.2 as follows: "***any actions or circumstances which, in the considered judgment of the Board, were not within the control of the late filer and which were the direct cause of the late filing.***"

### Recommendation to waive a fine:

- The staff will consider recommending a **waiver of the late fees** only if the following criteria are met:
  1. The waiver request is timely filed with the Board, and
  2. The late filer is a first time offender.
- If the filer meets the requirements above, the staff will then look at the specific reason given for the late filing to determine if it merits "Good Cause".
- If the reason given meets the statutory definition of "Good Cause", then the staff will make a recommendation based on the schedule below:
  1. If between 1 and 10 days late, **waive the fine.**
  2. If between 11 and 20 days late, waive all but \$300.
  3. If between 21 and 30 days late, waive all but \$500.

- If the filer demonstrates material<sup>1</sup> financial hardship, and there is “Good Cause” for the late filed report, the staff may recommend waiver of the entire late fee.

Recommendation to *suspend* a fine:

- The staff will consider recommending a **suspension of the late fees**, for those persons who have previously filed a late report, only if the following criteria are met:
  1. The waiver request is timely filed with the Board, and
  2. The late filer has no more than 1 other late filing with an assessed fine.
- If the filer meets the requirements above, the staff will then look at the specific reason given for the late filing to determine if it merits “Good Cause”.
- If the reason given meets the statutory definition of “Good Cause”, the staff will make a recommendation based on the schedule below:
  1. If between 1 and 10 days late, **suspend the fine**.
  2. If between 11 and 20 days late, **suspend all but \$300**.
  3. If between 21 and 30 days late, **suspend all but \$500**.

***All suspensions are to be based upon future compliance with the Code of Governmental Ethics.***

- If the filer demonstrates material financial hardship, and there is “Good Cause” for the late filed report, the staff may recommend the suspension of the entire late fee.

**WAIVER RECONSIDERATION REQUESTS:**

The staff will consider *waiver reconsideration requests* that are filed with the Board if they are:

1. Filed, in writing, within 30 days of the Board denying a waiver request,
2. Presents new facts and/or evidence regarding the late filing, and

The staff will only consider **one** waiver reconsideration request per late filing penalty.

If the waiver reconsideration request presents new facts, which the staff deems to be “Good Cause” as defined in §1157.2, it will make a recommendation that the Board consider the reconsideration request.

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<sup>1</sup> Material financial hardship should be shown by documentary evidence, not just testimony.

The staff will then make a recommendation based upon its established waiver guidelines as outlined above.